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JOSEPH SILVA
7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 JOSEPH SILVA,

15 Defendant.
16

Case No. 1:23-cr-00163-JLT-SKO

STIPULATION TO CONTINUE
SENTENCING; ORDER

Date: March 24, 2025
Time: 9:00 a.m.

17 IT IS HEREBY STIPULATED by and between the parties through their respective
18 counsel, Assistant United States Attorney Karen Escobar, counsel for plaintiff, and Assistant
19 Federal Defender Reed Grantham, counsel for Joseph Silva, that the sentencing hearing currently
20 scheduled for January 21, 2025, at 9:00 a.m. may be continued to March 24, 2025, at 9:00 a.m.

21 Mr. Silva entered a plea of guilty to Counts 7, 8, 9, and 10 of the Indictment on October
22 7, 2024. *See* Dkt. #41. The matter was then scheduled for sentencing on January 21, 2025. *See*
23 Dkt. #41. Mr. Silva submitted his informal objections to the PSR on December 23, 2024, and a
24 final PSR was filed on December 30, 2024. *See* Dkt. #45.

25 In his informal objections, Mr. Silva argued against the application of U.S.S.G. §
26 2K2.1(b)(1)(B), which imposes a four-level enhancement if the offense involves between 8 and
27 24 firearms. Mr. Silva has argued that the PSR should reflect an application of U.S.S.G. §
28 2K2.1(b)(1)(A), which imposes a two-level enhancement if the offense involves between 3 and 7

1 firearms. Mr. Silva's argument in this respect is ground on the reasoning and holding of the Fifth
2 Circuit in *VanDerStok v. Garland*, 86 F.4th 179 (5th Cir. 2023), cert. granted, 144 S. Ct. 1390
3 (2024). The Supreme Court granted certiorari in the matter on April 22, 2024, and oral argument
4 was heard before the Supreme Court on October 8, 2024. A decision by the Supreme Court is
5 expected soon.

6 Sine it is anticipated that the Supreme Court's ruling in *VanDerStok* will impact the
7 application of a particular guidelines enhancement in Mr. Silva's case, the parties are requesting
8 that sentencing in this matter be continued to a date by which it is expected that the Supreme
9 Court will have issued a ruling in *VanDerStok*. The government does not oppose the continuance
10 of the sentencing in this matter to the date proposed herein. The requested continuance is made
11 with the intention of conserving time and resources for both the parties and the Court. The
12 requested date is a mutually agreeable date for all parties. As this is a sentencing hearing, no
13 exclusion of time is necessary.

14
15 Respectfully submitted,

16 PHILLIP A. TALBERT
17 United States Attorney

18 Date: January 6, 2025

19 /s/ Karen Escobar
20 KAREN ESCOBAR
Assistant United States Attorney
Attorney for Plaintiff

21 HEATHER E. WILLIAMS
22 Federal Defender

23 Date: January 6, 2025

24 /s/ Reed Grantham
25 REED GRANTHAM
Assistant Federal Defender
Attorney for Defendant
26 JOSEPH SILVA
27
28

ORDER

IT IS HEREBY ORDERED that the sentencing hearing scheduled for Monday, January 21, 2025, at 9:00 a.m. be continued to Monday, March 24, 2025, at 9:00 a.m.

IT IS SO ORDERED.

Dated: **January 7, 2025**


UNITED STATES DISTRICT JUDGE